

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In re:)	CASE NO: 07-52874
)	Chapter 13
James Frederick Maguire, Jr.)	
)	
Debtor(s).)	Judge Marilyn Shea-Stonum
)	
		<u>OBJECTION TO ALLOWANCE</u>
		<u>OF CLAIM</u>

Now comes the above-captioned debtor, by and through the undersigned counsel, who hereby objects to the allowance of the claim of the United States Department of the Treasury, Internal Revenue Service, filed herein in the amount of \$18,330.81. The debtor states the following:

1. This case was commenced as a case under chapter 13, title 11 U.S.C. on September 6, 2007.

2. The debtor, and his former spouse, operated a Ohio corporation named James M., Inc. prior to the debtor's filing of his chapter 13 case. On August 12, 2010, the Internal Revenue Service filed herein a proof of claim for trust fund taxes owed by the corporation for the tax periods ending March 31, 2006, June 30, 2006, September 30, 2006, December 31, 2006 and March 31, 2007. The amount of this proof of claim was for \$18,330.81. The proof of claim filed by the Internal Revenue Service labels the amounts for these tax periods as "civil penalties," apparently alleging that the petitioner is the responsible party for paying these taxes. The debtor submits, however, that his former wife has agreed to assume and pay these taxes.

3. Attached hereto as Exhibit "A" are copies of "plain English" tax transcripts itemizing the debtor's alleged liability for each of the time periods that comprise the proof of claim filed by the Internal Revenue Service, *viz.*,

- a. March 31, 2006, credit due the debtor of \$775.52.
- b. June 30, 2006, zero balance of tax due.
- c. September 30, 2006, account balance of \$2,221.38
- d. December 31, 2006, account balance of \$1,632.27.

The debtor submits, therefore, that according to the Internal Revenue Service, the

debtor owes a total of \$3,077.86. Adding to this \$3,077.86 an additional amount of \$4,624.74 that the Internal Revenue Service states in the proof of claim is owed by the debtor for the tax period ending March 31, 2007, the sum is a grand total of \$7,702.60 and not the \$18,330.81 amount set forth by the Internal Revenue Service in its proof of claim.

4. Additionally, the Internal Revenue Service has sent to the chapter 13 trustee a credit letter dated February 15, 2010 (apparently actually sent to the chapter 13 trustee on February 15, 2011) indicating that the debtor should be credited \$3,988.85. Application of this credit does not explain the discrepancy between the \$7,702.60 shown on the above-referenced transcripts and the amount shown on the Internal Revenue Service's proof of claim and it is not apparent how this \$3,988.85 is accounted for in the transcripts attached as Exhibit "A," if in fact the \$3,988.85 is credited at all.

WHEREFORE, the debtor prays for the entry of an order disallowing the claim of the Internal Revenue Service in its entirety and directing the Internal Revenue Service to file herein an amended claim for any amounts due within ninety (90) days from the date of this motion. The debtor further prays for such other and further relief as may be equitable and just.

Respectfully Submitted,

/s/ Robert M. Whittington, Jr. 0007851
159 S. Main St., Suite 1023
Akron, OH 44308
330 384 8484
fax 330 384 8953
elkwhitt@neo.rr.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing objection was sent by ordinary U.S. Mail, postage prepaid, this 28th day of February, 2011 to the following:

Keith Rucinski, chapter 13 trustee
I Cascade Plaza, #2020
Akron, OH 44308

U.S. Trustee
201 Superior Ave. E. #441
Cleveland, OH 44114

Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

Internal Revenue Service
Insolvency Group 6
1240 East Ninth Street, Room 493
Cleveland, OH 44199

Office of the United States Attorney
Attn: Bankruptcy Section
Carl B. Stokes United States Court House
801 West Superior Avenue, Suite 400
Cleveland, OH 44113-1852

Attorney General of the United States
U.S. Department of Justice Tax Division
Civil Trial Section, Northern Region
P.O. Box 55, Ben Franklin Station
Washington, D.C. 20044

/s/ Robert M. Whittington, Jr.

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

In re:) CASE NO: 07-52874
James Frederick Maguire, Jr.) Chapter 13
) Judge Marilyn Shea-Stonum
) NOTICE OF OBJECTION TO
) CLAIM
Debtors.)

The debtor has filed an objection to your claim in this bankruptcy case.

Your claim may be reduced, modified or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one.

If you do not want the court to eliminate or change your claim, then or before April 6, 2011, you or your lawyer must file with the Court a written response to the objection explaining your position at room 455, U.S. Courthouse, 2 S. Main Street, Akron, Ohio 44308.

If you mail your response to the Court for filing, you must mail it early enough so that the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Robert M. Whittington, Jr., 1023 Key Bldg., 159 S. Main Street, Akron, OH
44308

Keith Rucinski, chapter 13 trustee, I Cascade Plaza, #2020, Akron, OH 44308

If you or your attorney do not take these steps, the Court may decide that you do not oppose the objection to your claim.

DATE: February 28, 2011

/s/ Robert M. Whittington, Jr., 0007851
Attorney for the Debtor(s)
1023 Key Bldg.
159 S. Main St.
Akron, OH 44308
(330) 384-8484

**Internal Revenue Service**

e-services

DEPARTMENT OF THE TREASURY

This Product Contains Sensitive Taxpayer Data

Account Transcript

Request Date: 02-24-2011

Response Date: 02-24-2011

Tracking Number: 100092472614

FORM NUMBER: CIVIL PENALTY

TAX PERIOD: Mar. 31, 2006

TAXPAYER IDENTIFICATION NUMBER:

JAMES F MAGUIRE

<<<<POWER OF ATTORNEY/TAX INFORMATION AUTHORIZATION (POA/TIA) ON FILE>>>>

--- ANY MINUS SIGN SHOWN BELOW SIGNIFIES A CREDIT AMOUNT ---

ACCOUNT BALANCE: -775.52

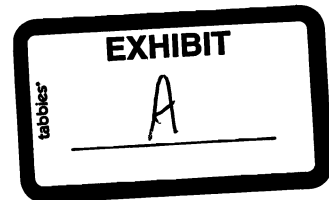
ACCRUED INTEREST: 0.00

AS OF: Mar. 07, 2011

ACCOUNT BALANCE PLUS ACCRUALS
(this is not a payoff amount):

-775.52

** INFORMATION FROM THE RETURN OR AS ADJUSTED **



TRANSACTIONS

CODE	EXPLANATION OF TRANSACTION	CYCLE DATE	AMOUNT
240	Miscellaneous penalty IRC 6672 Trust Fund Recovery Penalty 29254-448-52974-9	20090808 03-09-2009	\$5,866.02
290	Additional tax assessed 29254-448-52974-9	20090808 03-09-2009	\$0.00
971	Notice issued CP 015B	03-09-2009	\$0.00
971	Tax period blocked from automated levy program	08-10-2009	\$0.00
971	Collection due process Notice of Intent to Levy -- issued	07-27-2009	\$0.00
971	Collection due process Notice of Intent to Levy -- refused or unclaimed	08-18-2009	\$0.00
960	Appointed representative	01-15-2010	\$0.00
706	Credit transferred in from 1040 200712	04-15-2008	-\$4,399.10
520	Bankruptcy or other legal action filed	09-06-2007	\$0.00
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer	04-15-2008	-\$2,437.45

Payment or Reversal of Payment
13254-618-53098-0

701	Removed credit transferred in from 1040 200712 [REDACTED]	04-15-2008	\$970.53
520	Bankruptcy or other legal action filed	09-06-2007	\$0.00
683	Payment of interest only	09-13-2010	-\$23.20
570	Additional account action pending	10-18-2010	\$0.00
682	Correction to payment of interest only	09-13-2010	\$23.20
680	Payment of interest only Undesignated Bankruptcy	11-15-2010	-\$604.22
570	Additional account action pending	01-03-2011	\$0.00
680	Payment of interest only Undesignated Bankruptcy	12-06-2010	-\$171.30

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**Internal Revenue Service**

DEPARTMENT OF THE TREASURY

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Account Transcript

Request Date: 02-24-2011

Response Date: 02-24-2011

Tracking Number: 100092472614

FORM NUMBER: CIVIL PENALTY

TAX PERIOD: Jun. 30, 2006

TAXPAYER IDENTIFICATION NUMBER:

JAMES F MAGUIRE

<<<<POWER OF ATTORNEY/TAX INFORMATION AUTHORIZATION (POA/TIA) ON FILE>>>>

--- ANY MINUS SIGN SHOWN BELOW SIGNIFIES A CREDIT AMOUNT ---

ACCOUNT BALANCE: 0.00

ACCRUED INTEREST: 0.00 AS OF: Mar. 07, 2011

ACCOUNT BALANCE PLUS ACCRUALS

(this is not a payoff amount): 0.00

** INFORMATION FROM THE RETURN OR AS ADJUSTED **

TRANSACTIONS

CODE	EXPLANATION OF TRANSACTION	CYCLE	DATE	AMOUNT
240	Miscellaneous penalty IRC 6672 Trust Fund Recovery Penalty 29254-448-52631-9	20090808	03-09-2009	\$5,064.71
290	Additional tax assessed 29254-448-52631-9	20090808	03-09-2009	\$0.00
971	Notice issued CP 015B		03-09-2009	\$0.00
971	Tax period blocked from automated levy program		08-10-2009	\$0.00
971	Collection due process Notice of Intent to Levy -- issued		07-27-2009	\$0.00
971	Collection due process Notice of Intent to Levy -- refused or unclaimed		08-18-2009	\$0.00
960	Appointed representative		01-15-2010	\$0.00
520	Bankruptcy or other legal action filed		09-06-2007	\$0.00
706	Credit transferred in from CIVIL PENALTY 200503		06-10-2010	-\$951.26
520	Bankruptcy or other legal action filed		09-06-2007	\$0.00
706	Credit transferred in from		06-10-2010	-\$54.37

CIVIL PENALTY 200503			
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 11254-663-53027-0	12-04-2009	-\$179.79
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 11254-663-53057-0	04-15-2009	-\$248.82
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 19254-663-53002-0	08-30-2010	-\$350.00
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 19254-663-53008-0	12-04-2009	-\$2.82
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 19254-663-53049-0	12-04-2009	-\$179.79
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 11254-698-53010-0	07-23-2010	-\$350.00
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 19254-698-53020-0	09-28-2010	-\$350.00
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 19254-698-53093-0	08-30-2010	-\$307.00
240	Miscellaneous penalty IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 19254-698-53094-0	20104408 08-30-2010	\$350.00
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 22254-698-53023-0	07-28-2010	-\$350.00
680	Payment of interest only Undesignated Bankruptcy	09-13-2010	-\$23.20

196	Interest charged for late payment	20104508 11-22-2010	\$23.20
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 19254-743-53210-0	10-28-2010	-\$350.00
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 13254-426-53032-1	11-29-2010	-\$350.00
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 11254-440-53015-1	11-29-2010	-\$112.63
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 11254-440-53083-1	12-04-2009	-\$179.79
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 11254-440-53139-1	11-29-2010	-\$214.34
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 13254-440-53024-1	12-04-2009	-\$179.79
240	Miscellaneous penalty IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 19254-440-53271-1	20110708 11-29-2010	\$350.00
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 22254-440-53169-1	04-15-2010	-\$927.23
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment 22254-440-53181-1	04-15-2009	-\$341.42
570	Additional account action pending	02-28-2011	\$0.00
196	Interest charged for late payment	20110708 02-28-2011	\$214.00
386	Write-off of credit balance less than \$1	02-28-2011	\$0.34

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**Internal Revenue Service**

DEPARTMENT OF THE TREASURY

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Account Transcript

Request Date: 02-24-2011

Response Date: 02-24-2011

Tracking Number: 100092472614

FORM NUMBER: CIVIL PENALTY

TAX PERIOD: Sep. 30, 2006

TAXPAYER IDENTIFICATION NUMBER:

JAMES F MAGUIRE

<<<<POWER OF ATTORNEY/TAX INFORMATION AUTHORIZATION (POA/TIA) ON FILE>>>>

--- ANY MINUS SIGN SHOWN BELOW SIGNIFIES A CREDIT AMOUNT ---

ACCOUNT BALANCE: 1,856.58

ACCRUED INTEREST: 364.80

AS OF: Mar. 07, 2011

ACCOUNT BALANCE PLUS ACCRUALS

(this is not a payoff amount): 2,221.38

** INFORMATION FROM THE RETURN OR AS ADJUSTED **

TRANSACTIONS

CODE	EXPLANATION OF TRANSACTION	CYCLE DATE	AMOUNT
240	Miscellaneous penalty IRC 6672 Trust Fund Recovery Penalty 29254-448-52396-9	20090808 03-09-2009	\$6,153.18
290	Additional tax assessed 29254-448-52396-9	20090808 03-09-2009	\$0.00
971	Notice issued CP 015B	03-09-2009	\$0.00
971	Tax period blocked from automated levy program	08-10-2009	\$0.00
971	Collection due process Notice of Intent to Levy -- issued	07-27-2009	\$0.00
971	Collection due process Notice of Intent to Levy -- refused or unclaimed	08-18-2009	\$0.00
960	Appointed representative	01-15-2010	\$0.00
520	Bankruptcy or other legal action filed	09-06-2007	\$0.00
520	Bankruptcy or other legal action filed	09-06-2007	\$0.00
241	Miscellaneous penalty adjustment IRC 6672 Adjustment to Trust Fund Recovery Penalty Balance Due by a Related Taxpayer Payment or Reversal of Payment	04-15-2010	-\$3,946.77

19254-440-53043-1

241	Miscellaneous penalty adjustment	12-28-2010	-\$349.83
	IRC 6672 Adjustment to Trust Fund Recovery		
	Penalty Balance Due by a Related Taxpayer		
	Payment or Reversal of Payment		

22254-440-53091-1

This Product Contains Sensitive Taxpayer Data

**Internal Revenue Service**

DEPARTMENT OF THE TREASURY

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This Product Contains Sensitive Taxpayer Data

Account Transcript

Request Date: 02-24-2011

Response Date: 02-24-2011

Tracking Number: 100092488614

FORM NUMBER: CIVIL PENALTY

TAX PERIOD: Dec. 31, 2006

TAXPAYER IDENTIFICATION NUMBER:

JAMES F MAGUIRE

<<<<POWER OF ATTORNEY/TAX INFORMATION AUTHORIZATION (POA/TIA) ON FILE>>>>

--- ANY MINUS SIGN SHOWN BELOW SIGNIFIES A CREDIT AMOUNT ---

ACCOUNT BALANCE: 1,508.92

ACCRUED INTEREST: 123.35

AS OF: Mar. 07, 2011

ACCOUNT BALANCE PLUS ACCRUALS

(this is not a payoff amount): 1,632.27

** INFORMATION FROM THE RETURN OR AS ADJUSTED **

TRANSACTIONS

CODE	EXPLANATION OF TRANSACTION	CYCLE DATE	AMOUNT
240	Miscellaneous penalty IRC 6672 Trust Fund Recovery Penalty 29254-444-52902-9	20090808 03-09-2009	\$1,508.92
290	Additional tax assessed 29254-444-52902-9	20090808 03-09-2009	\$0.00
971	Notice issued CP 015B	03-09-2009	\$0.00
971	Tax period blocked from automated levy program	08-10-2009	\$0.00
971	Collection due process Notice of Intent to Levy -- issued	07-27-2009	\$0.00
971	Collection due process Notice of Intent to Levy -- refused or unclaimed	08-18-2009	\$0.00
960	Appointed representative	01-15-2010	\$0.00
520	Bankruptcy or other legal action filed	09-06-2007	\$0.00
520	Bankruptcy or other legal action filed	09-06-2007	\$0.00

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Internal Revenue Service**Department of the Treasury**

Keith Rucinski, Trustee
One Cascade Plaza
Ste 2020
Cleveland, OH 44199

Person to Contact:
Ms. Sanders 31-09204

Telephone Number:
(216) 522-2819

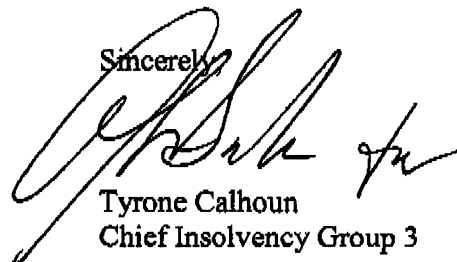
Date: February 15 2010

NOTIFICATION OF CHANGE IN TAX LIABILITY

RE: James F. Maguire
Case: 07-52874 Chapters 13

We have received a credit in the amount of \$3988.85 this credit has been applied to the 200512 tax liability shown on the Proof of Claim.

Sincerely,



Tyrone Calhoun
Chief Insolvency Group 3



TOTAL P.02